



March 11, 2008

Boards of Assessors
Mayors and Selectmen
City and Town Managers
Finance Directors

Dear Local Officials:

Today, we have issued Bulletin 2008-03B, *Assessment of Poles and Wires on Public Ways*, to inform local officials and taxpayers of the effect of the March 3, 2008 Appellate Tax Board (ATB) order in the consolidated *Verizon New England, Inc.* cases on the taxation of poles and wires of incorporated telecommunications companies located on public ways and the Department of Revenue's response to this order. This letter addresses questions that have arisen about the relationship between the ATB's order and pending legislation that also addresses the taxation of telecommunications company property.

The Municipal Partnership Act (MPA) filed by Governor Patrick last year includes several proposals. It expressly provides that telecommunications company poles and wires on both public and private ways are taxable, thereby eliminating the historical exclusion from tax for poles and wires located on public ways. The effect of the ATB order then, should it be sustained in any appeal that Verizon may take, is consistent with this part of the MPA.

The ATB's order does not relate, however, to any of the other MPA proposals. The MPA also treats telephone companies the same as other business corporations instead of utilities for local tax purposes, which would make switching and other machinery used in the conduct of business taxable. Taxable machinery would be valued by local assessors, with the Department retaining central valuation responsibility for poles, wires, underground conduits, wires and pipes. In addition, wireless telecommunications companies would not be considered telephone companies for central valuation purposes, which would effectively codify the May 15, 2006 ATB ruling to that effect in the *Bell Atlantic Mobile* cases. See TIR 06-19, *Effect of the Appellate Tax Board's Rulings in Bell Atlantic Mobile of Massachusetts Corp. v. Commissioner of Revenue and Related Rulings*. Those cases are now on appeal to the Supreme Judicial Court, which heard oral arguments last Thursday, March 6, 2008.

The final outcome of the *Verizon* cases with respect to taxation of poles and wires over public ways may not be known for some time. As a result, as outlined in the attached Bulletin, municipalities will be limited in their ability to spend any new growth related taxes associated with the ATB order. In the meantime, please feel free to contact us if you have questions.

Very truly yours,

Robert G. Nunes
Deputy Commissioner

RGN:KC